

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALICIA CARMEN GUILLERMO,

Plaintiff,

-against-

STARTING C & M CORP. D/B/A ANDY'S
RESTAURANT, et al.,

Defendants.

23-CV-5022 (AS)

OPINION & ORDER

ARUN SUBRAMANIAN, United States District Judge:

This is a lawsuit for unpaid overtime wages and minimum wages under the Fair Labor Standards Act and New York Labor Law. *See* Dkt. 1. In addition, Plaintiff alleges that Defendants failed to provide proper wage notices and statements, in violation of the New York State Wage Theft Prevention Act (WTPA). *See id.* ¶¶ 95–100. As explained in this Court’s opinion in *Cartagena v. Sixth Ave. W. Assocs. LLC*, 2023 WL 6318170, at *1 (S.D.N.Y. Sept. 28, 2023), the complaint provides no basis for standing with respect to the WTPA claims. Specifically, Plaintiff’s complaint failed to identify the “downstream consequences from failing to receive the required information” and “informational injury that causes no adverse effects cannot satisfy Article III.” *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2214 (2021).

On October 17, 2023, during an initial pretrial conference and in an order filed at Dkt. 24, the Court advised Plaintiff of this deficiency and advised that “Plaintiff may amend her complaint to cure this standing deficiency no later than October 31, 2023.” The Court also warned that “[i]f Plaintiff fails to amend the complaint, the Court will *sua sponte* dismiss the sixth and seventh causes of action in Plaintiff’s complaint.” Dkt. 24 at 3.

Plaintiff failed to file an amended complaint curing the standing deficiency. Plaintiffs’ WTPA claims are therefore DISMISSED *sua sponte* for lack of Article III standing. *See Cent.*

States Se. & Sw. Areas Health & Welfare Fund v. Merck-Medco Managed Care, L.L.C., 433 F.3d 181, 198 (2d Cir. 2005) (“Because the standing issue goes to this Court’s subject matter jurisdiction, it can be raised *sua sponte*.”).

SO ORDERED.

Dated: November 2, 2023
New York, New York

A handwritten signature in black ink, appearing to read 'Arun Subramanian', is written over a horizontal line.

ARUN SUBRAMANIAN
United States District Judge